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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/531,956	03/21/2000	Bryan M. Eagle III	11459/1	6873
23838	7590	11/28/2003	EXAMINER	
KENYON & KENYON 1500 K STREET, N.W., SUITE 700 WASHINGTON, DC 20005			MORGAN, ROBERT W	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 11/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/531,956

Applicant(s)

EAGLE, BRYAN M.

Examiner

Robert W. Morgan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 120-128 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 120-128 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. In the amendment filed 9/3/03 in paper number 11, the following has occurred: Claims 1-119 have been canceled and claims 120-128 have been added.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 120-128 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,085,185 to Walker et al. in view of "Air charter fly to Internet" by Jonas.

As per claim 120, Walker et al. teaches a conditional purchase offer (CPO) management system (100, Fig. 1) (reads on "a reservation service operated by a reservation service owner") that includes a one or more secured airline servers (300, Fig. 11) that stores CPO rules (reads on "reservation service to receive electronically from said airplane owner a flight availability for said airplane, said flight availability including a departure location, departure time constraints, and a minimum total payment required to reserve said airplane, said minimum total payment expressed as a function of available seats and price per seat"), defined by any associated airlines (see: column 6, lines 23-30). Each airline server (300, Fig. 1) may be remotely located from the CPO management central server (200, Fig. 1) and integrated with the CPO management central server (200, Fig. 1) (see: column 6, lines 30-33). In addition, CPO rules are a set of restrictions defined by a given seller, such as an airline, to define a combination of restrictions for which the

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seller is willing to accept at a predefined minimum price (see: column 44-47). Walker et al. further teaches an airline database (700, Fig. 7) that stores information on each airline, which registered with the CPO management system (100, Fig. 1) as well as a flight schedule database (reads on “reservation service to post said flight availability on an electronic medium”) (800, Fig. 6) that stores specific flight information for each origin and destination (O & D) Pair (see: column 9, lines 56-61). Furthermore, Walker et al. teaches a CPO management process (1600, Fig. 16a) where a CPO, which is a binding offer containing one or more conditions submitted by a customer (110, Fig. 1) for the purchase of an item, such as air travel, at a customer-defined price, received from a customer (reads on “reservation service to receive electronically a reservation bid from a passenger, said passenger independent of said reservation service owner and said airplane owner, said reservation bid including an arrival location and a payment offer”) and compared against the CPO rules provided by the airline and as a result of the comparison the CPO is either accepted, rejected or countered by the airline (reads on “transmit electronically to said airplane owner said reserved flight availability”). Thereafter, the customer is notified of the response of the airlines to the CPO. If an airline accepts the CPO, or if the customer accepts (reads on “reservation service to reserve said flight availability and to accept said reservation bid if said reservation service has matched a number of reservation bids with said flight availability such that said minimum total payment requirement is met”) a counteroffer from the airline, a ticket is then booked (reads on “transmit electronically to said passenger said accepted reservation bid” and “to transmit electronically to said airplane owner a final passenger list and a final flight schedule that is substantially consistent with said departure time constraints, said departure location, and said arrival location”) by the CPO management system (100, Fig. 1) (see:

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column 5, lines 31-43 and column 7, lines 55-67). Additionally, Walker et al. teaches that the parameters of a CPO may allow a customer to specify one or more preferred airline(s), flights, seat assignments, seat class, aircraft type, refund/change rules, or maximum layover time (see: column 5, lines 31-43). Walker et al. also teaches a CPO management process (1600, Fig. 16C) where credit card information associated with a given customer is transmitted to the credit card issuer for payment (reads on “reservation service to collect a payment from said passenger, said payment corresponding to said payment offer” and “transfer said collected payment to said airplane owner”) (see: column 9, lines 23-38).

Walker et al. fails to teach:

--the claimed reservation system for private aircraft;

--the claimed airplane operated by a private airplane owner, said airplane owner independent of said reservation service owner; and

--the claimed airplane to fly said passenger on a route from said departure location to said arrival location substantially according to said final flight schedule.

Jonas teaches AirCharter.com which is an online real-time air charter reservation system with Internet booking capabilities for 2,000 aircraft from 800 charter operators (see: paragraph 2). Furthermore, AirCharter.com buys space and time from the charter operators at a wholesale price (see: paragraph 7). In addition, Jonas further teaches that SkyJet.com acts as an intermediary between customers and suppliers (see: paragraph 9).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include AirCharter’s 800 charter operators within the conditional

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purchase offer management system as taught by Walker et al. with the motivation of giving customers instant access to thousands of private aircraft carriers (see: paragraph 1).

As per claim 121, Walker et al. teaches further comprising:

--the claimed said reservation service to terminate said flight availability and to refuse said reservation bid if said reservation service fails to match a number of reservation bids with said flight availability such that said minimum total payment requirement is met. This limitation is met by CPO rules generation process (1900, Fig. 19) at step 1910 where it is determined whether a flight is likely to depart with empty seats and if not the flight is terminated (see: column 23, line 59 to column 60, line 13 and Fig. 19). The Examiner considers a flight to be terminated when cost exceeds profit.

As per claims 122-123, they are rejected for the same reasons set forth in claims 120-121.

As per claim 124, Walker et al. teaches a conditional purchase offer (CPO) management system (100, Fig. 1) that includes a one or more secured airline servers (300, Fig. 11) that stores CPO rules, defined by any associated airlines (see: column 6, lines 23-30). Each airline server (300, Fig. 1) may be remotely located from the CPO management central server (200, Fig. 1) and integrated with the CPO management central server (200, Fig. 1) (see: column 6, lines 30-33). In addition, CPO rules are a set of restrictions defined by a given seller, such as an airline, to define a combination of restrictions for which the seller is willing to accept at a predefined minimum price (see: column 44-47). Walker et al. further teaches an airline database (700, Fig. 7) that stores information on each airline, which registered with the CPO management system (100, Fig. 1) as well as a flight schedule database (800, Fig. 6) that stores specific flight information (reads on "posting said availability on an electronic medium") for each origin and destination (O & D)

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Pair (reads on “aircraft availability including an origin, departure-arrival constraints and seating constraints”) (see: column 9, lines 56-61). Furthermore, Walker et al. teaches a CPO management process (1600, Fig. 16a) where a CPO, which is a binding offer containing one or more conditions submitted by a customer (110, Fig. 1) for the purchase of an item, such as air travel, at a customer-defined price, received from a customer (reads on “receiving a reservation bid from a passenger, said reservation bid responsive to said posted availability”) and compared against the CPO rules provided by the airline and as a result of the comparison the CPO is either accepted, rejected or countered by the airline. Thereafter, the customer is notified (reads on “communicating electronically said acceptance to said passenger”) of the response of the airlines to the CPO. If an airline accepts (reads on “communicating electronically said acceptance to said aircraft owner”) the CPO, or if the customer accepts a counteroffer from the airline, a ticket is then booked by the CPO management system (100, Fig. 1) (see: column 5, lines 31-43 and column 7, lines 55-67). Additionally, Walker et al. teaches that as tickets are sold by the airlines (120, Fig. 5b), the airline reservation system (ARS) will decrement the available inventory seat allocation database (1400, Fig. 14) (reads on “accepting said reservation bid when said reservation bid plus a number of additional passenger reservation bids exceeds a predetermined profitability threshold”). Furthermore, Walker et al. teaches during the CPO rules generation process (1900, Fig. 19) at step 1910 it is determined whether a flight is likely to depart with empty seats and if not the flight is terminated (see: column 23, line 59 to column 60, line 13 and Fig. 19). The Examiner considers a flight to be terminated when cost exceeds profit.

Walker et al. fails to teach booking reservations on a private aircraft.

Jonas teaches AirCharter.com which is an online real-time air charter reservation system with Internet booking capabilities for 2,000 aircraft from 800 charter operators (see: paragraph 2). Furthermore, AirCharter.com buys space and time from the charter operators at a wholesale price (see: paragraph 7). In addition, Jonas further teaches that SkyJet.com acts as an intermediary between customers and suppliers (see: paragraph 9).

The obviousness of combining the teachings of Jonas within the system of Walker et al. are discussed in the rejection of claim 120, and incorporated herein.

As per claim 125, Walker et al. teaches the claimed accepting said additional passenger reservation bids. This feature is met by the CPO management process (1600, Fig. 16a) where a CPO, which is a binding offer containing one or more conditions submitted by a customer (110, Fig. 1) for the purchase of an item, such as air travel, at a customer-defined price, received from a customer and compared against the CPO rules provided by the airline and as a result of the comparison the CPO is either accepted, rejected or countered by the airline. Thereafter, the customer is notified of the response of the airlines to the CPO. If an airline accepts the CPO, or if the customer accepts a counteroffer from the airline, a ticket is then booked by the CPO management system (100, Fig. 1) (see: column 5, lines 31-43 and column 7, lines 55-67).

As per claims 126-127, Walker et al. teaches that during the CPO rules generation process (1900, Fig. 19) at step 1910 it is determined whether a flight is likely to depart with empty seats and if not the flight is terminated (see: column 23, line 59 to column 60, line 13 and Fig. 19). Walker et al. also teaches that the determination on whether a flight will depart with empty seats using conventional method. The Examiner considers a flight terminated when costs

exceed profitability that is determined using conventional method such as the minimum number of passengers, seats and price per seat.

As per claim 128, it is rejected for the same reasons set forth in claim 123.

Response to Arguments

4. Applicant's arguments with respect to claims 120-128 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is (703) 605-4441. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (703) 305-9588. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

RWM
rwm


JOSEPH THOMAS
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